THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRIMINAL REVISION CASE No.461 of 2007

Date:01.04.2014

Between:

Shaik Karimullah

..... Petitioner.

AND

The State of Andhra Pradesh,
rep by its Public Prosecutor,
High Court of A.P., Hyderabad.

.....Respondent.

The Court made the following :

THE HON'BLE SRI JUSTICE S. RAVI KUMAR

CRIMINAL REVISION CASE No.461 of 2007

ORDER:

This revision is preferred against judgment dated 06-11-2006 in Crl.A.No.405/2005 on the file III Additional District & Sessions Judge, Guntur whereunder judgment dated 24-10-2005 in C.C.N.211/2004 on the file of VI Additional Munsif Magistrate, Guntur was confirmed.

2. Brief facts leading to filing of this revision are as follows:-

Sub-Inspector of Police, Old Guntur filed charge sheet alleging that on 26-05-2004, at about 06:50 P.M., the revision petitioner being driver of auto rikshaw bearing No.AP-7X-5724, drove the same in a rash and negligent manner at high speed, without blowing horn, could not control the auto, which resulted the persons travelling in the auto were thrown out of the auto, due to which, the inmates sustained bleeding injuries and while deceased was being shifted to the Government Hospital, Guntur, died on the way and the duty doctor declared her dead. On the report of T. Dhanalakshmi, Police registered Crime No.109/2004 and investigated into, which revealed that accused committed offence under Section 304-A IPC. On these allegations, P.Ws.1 to 13 are examined and documents Exs.P1 to P15 are marked on behalf of prosecution. No witness is examined and no document is marked on behalf of accused. On a over all consideration of oral and documentary evidence, trial Court found the accused guilty for the offence under Section 304-A IPC and sentenced him to suffer one year imprisonment. Aggrieved by the said conviction and sentence, accused preferred appeal to the Court of Session, Guntur and III Additional District & Sessions Judge, Guntur dismissed the appeal by confirming conviction and sentence. Now aggrieved by the same, present revision is preferred.

3. Heard both sides.

4. Advocate for revision petitioner submitted that both the Courts failed to notice that prosecution has not proved ingredients of Section 304-A IPC. He further submitted that P.Ws.1, 2, 4 & 6 are blood relatives and interested witnesses and their evidence is not supported and corroborated by any other independent evidence. He further submitted that there are contradictions in the evidence of P.Ws.1 to 4 and both Courts have not taken these aspects into consideration and convicted the revision petitioner. On the hand learned Public Prosecutor submitted that both the Courts have rightly convicted the revision petitioner and that there are no grounds to interfere with the concurrent findings of the Courts bellow.

5. Now the point that would arise for my consideration is whether Judgments of the Courts below are legal, proper and correct?

6. **Point:**- According to revision petitioner on 26-05-2006, the deceased was travelling in the auto bearing No.AP.7X-5724 driven by the accused and she was on the right side edge of the seat and due to negligent driving of the driver, she could not control balance, she was thrown out from the auto and fell down, which resulted in bleeding injuries to her hand, chest and head and she died while on the way to hospital. P.W.1 is the co-daughter in-law of the deceased who was also travelling in the same auto, P.W.2 is

the husband of the deceased, P.W.3 is a relative of the deceased, P.W.4 is an eye-witness, who deposed that the accused drove the auto at high speed without observing the traffic and that the deceased fell out from the auto and sustained injuries. He supported and corroborated the evidence of P.W.1 who travelled along with the deceased in the same auto. Both P.Ws.1 & 2 deposed that auto driver drove the vehicle at high speed and dashed R.T.C Bus, due to which, the deceased fell out from the auto and sustained grievous injuries. There are no contradictions or omissions in the evidence of P.Ws.1 & 4 and these witnesses are cross-examined on behalf of accused, but nothing could be elicited from them to discredit their testimonies. Their evidence is further supported and corroborated with the evidence of other prosecution witnesses, who are circumstantial witnesses. Both trial Court and appellate Court have rightly considered evidence of all these witnesses and came to a right conclusion and I do not find any wrong appreciation of evidence or incorrect findings on any of the material aspects. On a scrutiny of the material, I am of the view that both Courts rightly convicted the revision petitioner and that there are no grounds to interfere with the concurrent findings of the Courts have below with regard to conviction.

7. Now coming to sentence part, Advocate for revision petitioner submitted that accused was in jail for about 153 days and he is not involved in any other criminal cases

either prior to this offence or subsequent to this offence and that he is young at age. He submitted that considering these aspects, the period already undergone may be treated as punishment. From the evidence, it is clear that petitioner is auto driver and according to prosecution, as the deceased lost balance due to the negligent driving, she fell out from the auto. According to Advocate for revision petitioner, the accused is not involved in any other criminal cases either prior to this case or subsequent to his conviction in this case. Considering these aspects, I feel that the request of the revision petitioner can be considered.

8. For these reasons, revision is dismissed confirming the conviction for the offence under Section 304-A IPC, but the sentence of one year imprisonment is reduced to the period already undergone.

9. As a sequel, miscellaneous petitions, if any, pending in this Criminal Revision Case, shall stand dismissed.

JUSTICE S. RAVI KUMAR

Date:01.04.2014

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